

BOIES SCHILLER FLEXNER LLP
RICHARD J. POCKER, ESQ.
Nevada Bar No. 3568
300 South Fourth Street, Suite 800
Las Vegas, Nevada 89101
Telephone (702) 382-7300

Attorneys for Defendant
GLEN EDWARD GARNER

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No.: 2:18-cr-00317-JAD-VCF
)	
v.)	
)	
GLEN EDWARD GARNER,)	
)	
Defendant.)	
_____)	

STIPULATION AND ORDER TO CONTINUE DEADLINE FOR FILING OF
PRETRIAL MOTIONS AND RELATED DATES
(Tenth Request)

IT IS HEREBY STIPULATED AND AGREED, by and between Defendant GLEN EDWARD GARNER, by and through his attorney (Richard J. Pocker, Esq. of the law firm of Boies Schiller Flexner LLP), and the Plaintiff UNITED STATES OF AMERICA (hereinafter, “the Government”), by and through its attorney (Assistant United States Attorney Kevin Schiff), that the deadline for the filing of pretrial motions be extended to July 7, 2020, and the due date for any responses to pretrial motions be extended to July 21, 2020.

This Stipulation is entered into for the following reasons:

1. The present case is currently set for trial on September 29, 2020. The date by which pretrial motions are to be filed is June 16, 2020, just 4 days away. As noted in earlier

1 filings, the Government has discovered and provided relevant tape recordings of conversations
2 between the key witness against Defendant GARNER and a person alleged to be Defendant
3 GARNER, gathered through the electronic surveillance authorized in another investigation.
4 Although the Government has made the disclosure of these recordings, as well as much of the
5 Title III paperwork associated with the electronic surveillance in the past few weeks, Defendant
6 GARNER has through a recently filed Motion to Enforce and Compel Compliance With the
7 Court's Orders of July 12, 2019 and August 1, 2019, requested important recordings and
8 paperwork related to that surveillance. In response to that Motion, the Government advised
9 that it will provide additional requested surveillance recordings, perhaps as early as June 12,
10 2020.

11 2. Defendant GARNER is engaged in analyzing evidence and preparing to file
12 necessary pretrial motions. Counsel for Defendant GARNER requests additional time to
13 review and analyze the discovery materials provided by the Government, especially the
14 recordings the Government is about to provide, and to meet and strategize with Defendant
15 GARNER. Defendant GARNER's Motion for Disclosure of Information Regarding
16 Confidential Informant was heard by the Court in early July of 2019 and United States
17 Magistrate Judge Ferenbach granted the Motion, subject to a Protective Order. While
18 documentation and information responsive to Defendant GARNER's Motion and the Court's
19 Order have been (and will be) provided by the Government, Defendant GARNER filed his
20 Motion to Enforce on May 28, 2020. Briefing on that Motion is not yet complete, and the
21 hearing is set for June 22, 2020. Defendant GARNER and his counsel wish to receive any
22 further materials which the Court may order disclosed in a timely manner, sufficiently before
23 trial commences so as to utilize the information either in necessary pretrial motions or as part of
24 his defense at trial.

25 3. In addition to the above-referenced procedural considerations, the recent public
26 health crisis posed by the COVID 19 pandemic has impacted the ability of Defendant
27 GARNER and his counsel to effectively prepare the necessary pretrial motions, given the
28 medical and governmental restrictions attendant to the local Nevada community. Given the

1 necessity of preparing and assembling such motions in a situation where face to face meetings
2 between client and counsel are inadvisable and counsel's staff is working remotely, a short
3 additional extension of deadlines related to pretrial motions is necessary. Such an extension
4 will have no effect on the September 29, 2020 trial setting. The parties hereby agree that the
5 due date for pretrial motions should be extended from June 16, 2020 to July 7, 2020, and that
6 the deadline for responding to these motions be extended to July 21, 2020.

7 4. Counsel for both Defendant GARNER and the Government are in agreement
8 with respect to the need for a continuance of the due date for pretrial motions.

9 5. Defendant GARNER is free on pretrial release pending trial, and has no
10 objection to the requested continuance, as it will enhance the thoroughness of his trial
11 preparation. He is insistent on receiving as much helpful and useful evidence as possible in
12 response to his earlier motion, and to having his pretrial motions as comprehensive as possible.

13 6. Denial of this request for continuance will result in a miscarriage of justice,
14 given the necessity of further informed preparation by Defendant GARNER and his counsel,
15 with access to the additional materials the Government will make available, and taking into
16 account the restrictions upon conduct created by the pandemic.

17 7. The extension of deadlines contemplated by this Stipulation does not impact the
18 currently scheduled trial date of September 29, 2020. Nonetheless, the additional time
19 requested by this Stipulation is excludable in computing the time in which the trial herein must
20 commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section
21 3161(h)(7)(A), when considering the factors under Title 18, United States Code, Sections
22 3161(h)(7)(B) and 3161(h)(7)(B)(iv).

1 8. This is the tenth request for an extension of the date by which pretrial motions
2 must be filed.

3 DATED this 12th day of June, 2020.

4 BOIES SCHILLER FLEXNER LLP

NICHOLAS A. TRUTANICH
United States Attorney

5
6 By: /s/ Richard J. Pocker
7 RICHARD J. POCKER, ESQ.
8 Counsel for Glen Edward Garner

By: /s/ Kevin Schiff
KEVIN SCHIFF
Assistant United States Attorney

BOIES SCHILLER FLEXNER LLP
RICHARD J. POCKER, ESQ.
Nevada Bar No. 3568
300 South Fourth Street, Suite 800
Las Vegas, Nevada 89101
Telephone (702) 382-7300

Attorneys for Defendant
GLEN EDWARD GARNER

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No.: 2:18-cr-00317-JAD-VCF
)	
v.)	
)	
GLEN EDWARD GARNER,)	
)	
Defendant.)	
<hr/>		

I.

FINDINGS OF FACT

Based upon the pending Stipulation of counsel, and good cause appearing therefor, the Court finds that:

1. The present case is currently set for trial on September 29, 2020, and the deadline for filing pretrial motions is June 16, 2020. Counsel for Defendant GARNER requests additional time to review and analyze the additional discovery materials to be provided by the Government and to meet and strategize with Defendant GARNER. In addition, the Government's compliance with the Order granting Defendant GARNER's Motion for Disclosure of Information Regarding Confidential Informant is currently being litigated by way of Defendant GARNER's Motion to Enforce and Compel Compliance With the Court's Orders of July 12, 2019 and August 1, 2019, and has not yet been resolved.

2. Counsel for both Defendant GARNER and the Government are in agreement with respect to the need for a continuance of the due date for the filing of pretrial motions.

3. Defendant GARNER is presently on pretrial release pending trial, and has no objection to the requested continuance, as it will enhance the thoroughness of his trial preparation.

4. The public health crisis posed by the coronavirus pandemic has disrupted the activities of Defendant GARNER and his counsel in connection with the preparation of pretrial motions, and a short extension of the due dates for the filing of such motions is in the public interest and required to avoid a miscarriage of justice.

5. Based upon the necessity for continuity of counsel and effective preparation, denial of this request for a continuance would deny the parties herein sufficient time and opportunity to effectively and thoroughly prepare for the filing of pretrial motions in this case, taking into account the exercise of due diligence. Denial of this request would result in a miscarriage of justice.

6. The additional time requested by this Stipulation does not effect the trial date in the present case, but nonetheless is excludable in computing the time in which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), when considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B) and 3161(h)(7)(B)(iv).

For all of the above-stated reasons, the ends of justice would best be served by a continuance of the date by which pretrial motions must be filed.

II.

CONCLUSIONS OF LAW

The ends of justice served by granting said continuance outweigh the best interest of the public and the Defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the opportunity within which to be able to effectively and thoroughly prepare their pretrial motions, taking into account the exercise of due diligence.

1 The continuance sought herein is excludable under the Speedy Trial Act, Title 18,
2 United States Code, Section 3161(h)(7)(A), when considering the factors under Title 18, United
3 States Code, Sections 3161(h)(7)(B) and 3161(h)(7)(B)(iv).

4
5
6 **ORDER**

7 Based on the pending Stipulation of counsel, and good cause appearing,
8 IT IS FURTHER ORDERED that all additional Pretrial Motions are due on or before
9 July 7, 2020 and Responses thereto are due on July 21, 2020. Replies due on or before July 28,
10 2020.

11 DATED this 19th day of June, 2020.

12
13 
14 _____
15 UNITED STATES DISTRICT JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28